

**MINUTES OF THE PUBLIC MEETING OF THE
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY
January 24, 2004**

BOARD MEMBERS PRESENT: President Martin Reiss, D.O.; Vice-President Stanley Grossman; Stanley Brysacz, Jr., D.O.; Murray Cohen, D.O.; David Steinway, D.O.; Charlie Hendrix; F. P. Wedel, D.O.

STAFF / OTHERS PRESENT: Elaine LeTarte, Executive Director
Barbara Meyers, Deputy Director
Barbara Prah-Wix, D.O., Medical Consultant
Blair Driggs, Assistant Attorney General
Carole A. Whipple, Griffin & Associates (Court Reporter)

I. CALL TO ORDER

The Board President, Dr. Martin Reiss, called the meeting to order at 8:15 a.m.

II. ROLL CALL

The Executive Director took the roll. All the Board Members listed above were present, establishing quorum for the meeting. The staff and others listed above were also present.

III. PRESIDENT'S REPORT

A. Welcome to the 3rd year Medical Students – Arizona College of Osteopathic Medicine at Midwestern University and Kirksville College of Osteopathic Medicine.

Dr. Reiss welcomed the 3rd year medical students from the Arizona College of Osteopathic Medicine, Midwestern University. No students from Kirksville College of Osteopathic Medicine were present. After the conclusion of the Administrative and Investigative Hearings, and some Case Reviews, the Board held a question and answer session with the medical students. The students were dismissed at approximately 3:40 p.m.

IV. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

A. December 13, 2003 Board Meeting (open session)
Dr. Cohen moved that the minutes of the December 13, 2003 meeting be approved as presented. Mr. Grossman seconded. The motion passed, 7-0.

B. December 13, 2003 Board Meeting (executive session)
Dr. Steinway moved that the minutes of the executive session of the December 13, 2003 meeting be approved as presented. Dr. Cohen seconded. The motion passed, 7-0.

V. CALL TO THE PUBLIC

Dr. Reiss, President of the Board, informed those present that the Board's custom is to ask members of the public to speak when the agenda item of interest to the person is called. People wishing to speak should fill out a speaker form and give it to a staff member.

VI. ANNUAL BUSINESS

A. REVIEW, CONSIDERATION AND ACTION ON ELECTION OF OFFICERS PURSUANT TO A.R.S. § 32-1802(B)

1. President: Dr. Steinway nominated Dr. Reiss to be President of the Board. Mr. Grossman seconded. The motion passed, 7-0.

2. Vice-President: Dr. Cohen nominated Mr. Grossman to be Vice-President of the Board. Dr. Steinway seconded. The motion passed, 7-0.

B. REVIEW, DISCUSSION AND ACTION ON REQUIREMENT TO ESTABLISH FEES PURSUANT TO A.R.S. § 32-1826(A)

The Executive Director recommended fees for the upcoming year. Ms. Hendrix moved that the Board establish the fees as recommended. Mr. Grossman seconded. The motion passed, 7-0, setting the following fees:

1. Application for licensure - \$400.
2. Issuance of a license - \$180
3. Renewal of a License (biennial) - \$600
4. Locum Tenens Registration - \$300
5. Issuance of a Duplicate License - \$50 for license certificate, \$10 for wallet card
6. Annual Registration of an Approved Internship, Residency, Clinical Fellowship or Short-Term Residency Program - \$50
7. Teaching License - \$300
8. Five Day Educational Teaching Permit - \$100
9. Sale of (Paper) Directory - \$30
10. Sale of Mailing List or Directory on Computer Disks - \$100 for commercial use, \$25 for non-commercial use.
11. Registration to Dispense Drugs and Devices \$180 for initial registration.

VII. REVIEW, DISCUSSION, AND ACTION ON CASES MOVED TO FORMAL ADMINISTRATIVE HEARING, PURSUANT TO A.R.S. § 32-1855 (E).

A. Ethan Kennedy, D.O. Case No. 3250 License No. 3123
This case was continued at the request of staff.

VIII. REVIEW, DISCUSSION AND ACTION ON INVESTIGATIVE HEARINGS PURSUANT TO A.R.S. § 32-1855 (E)

A. Randel Davis, D.O. Case No. 3024 License No. 2484

Dr. Davis was present and accompanied by his attorney. He was sworn in by the court reporter. The Medical Consultant read the Summary into the record. The Board received excerpts from the depositions in the medical malpractice case from Dr. Davis. Dr. Davis discussed the case with the Board and answered the Board's questions. Dr. Steinway moved that the case be dismissed. Dr. Wedel seconded. A roll call vote was taken, and the motion passed, 7-0.

B. Henry Tomlinson, D.O. Case No. 3189 License No. 2639

Dr. Tomlinson was present, and was sworn in by the court reporter. The Medical Consultant summarized the case for the record. Dr. Tomlinson discussed the case, and responded to the Board's questions. The Board recessed at 9:30 a.m., and returned at 9:42 a.m. At that time, Dr. Tomlinson and the Board agreed to continue this investigative hearing until the Board's next meeting.

C. Armagh Kimbell, D.O. Case No. 3084 License No. 3539

Dr. Kimbell was present, and was sworn in by the court reported. The Medical Consultant read the case summary into the record. Dr. Kimbell discussed the case, and answered the Board's questions. Dr. Cohen moved that the case be dismissed. Mr. Grossman seconded. The complainant was present, and was sworn in by the court reporter. The complainant discussed the case with the Board. The Board then discussed the case further with Dr. Kimbell. The question was called and a roll call vote was taken. The motion failed, 3-4. Dr. Cohen, Mr. Grossman, and Dr. Brysacz voted in favor of the motion. Dr. Wedel, Dr. Steinway, Ms. Hendrix, and Dr. Reiss voted against the motion. The Board then continued discussion. Ms. Hendrix moved that a Letter of Concern be issued, citing the doctor's failure to adequately document her ongoing management of pacemaker failure in the ER department. Dr. Steinway seconded the motion. A roll call vote was taken, and the motion passed, 6-1. Dr. Brysacz voted against the motion.

D. Steven Traikovich, D.O. Case No. 3097 License No. 3330

Dr. Traikovich was present, and accompanied by his attorney and a staff member. Dr. Traikovich was sworn in by the court reporter. Dr. Traikovich provided additional information to the Board on this case, and answered the Board's questions. Dr. Steinway moved that the case be dismissed. Dr. Wedel seconded. The motion passed, 7-0.

E. Philip Bain, D.O. Case No. 3046M License No. 2302

Dr. Bain was present, and sworn in by the court reporter. The Medical Consultant read the case summary into the record. Dr. Bain discussed the case with the Board, and answered their questions. Dr. Steinway moved to dismiss the case. Dr. Cohen seconded. The motion passed, 7-0.

F. Arthur Taylor, D.O. Case No. 3078 License No. 2750

This case was continued at the request of the doctor.

G. Michael Steingart, D.O. Case No. 3076M License No. 2097

Dr. Steingart was present, and was sworn in by the court reporter. Dr. Reiss stated that, although members of his family had been treated by Dr. Steingart, he felt he was still able to fairly

assess and decide this case. The Medical Consultant read the case summary into the record. Dr. Steingart discussed the case with the Board and answered the Board's questions. Dr. Steinway moved to dismiss the case. Dr. Cohen seconded. A roll call vote was taken, and the motion passed, 7-0.

H. Philo Rogers, D.O. Case No. 3182 License No. 2809

Dr. Rogers was present, and sworn in by the court reporter. The Deputy Director read the case summary into the record. Dr. Rogers discussed the case with the Board, and answered the Board's questions. Dr. Cohen moved to dismiss the case. Mr. Grossman seconded. A roll call vote was taken, and the motion passed, 5-2. Mr. Grossman and Ms. Hendrix voted against the motion.

I. Todd Lincoln, D.O. Case No. 3085(B)M License No. 2445

This case was continued at the request of the doctor.

J. Howard Norman, D.O. Case No. 3157M License No. 0970

Dr. Norman was present, and sworn in by the court reporter. The Medical Consultant read the case summary into the record. Dr. Norman discussed the case and answered the Board's questions. Dr. Steinway moved to dismiss the case. Dr. Wedel seconded. The parents of the patient were present, and sworn in by the court reporter. They discussed the case with the Board. Dr. Steinway and Dr. Wedel withdrew their motion. The Board then discussed the case further with Dr. Norman. Ms. Hendrix moved to dismiss the case. Dr. Brysacz seconded. A roll call vote was taken and the motion passed, 7-0.

K. Mark Sundell, D.O. Case No. 3109 License No. 3290

This case was continued at the request of the staff.

L. Jayashree Raju, D.O. Case No. 3163M License No. 3041

Dr. Raju was present, and sworn in by the court reporter. The Medical Consultant read the case summary into the record. Dr. Raju discussed the case with the Board, and answered the Board's questions. Dr. Wedel moved that the case be dismissed. Dr. Cohen seconded. A roll call vote was taken, and the motion passed, 7-0.

M. Riley Selby, D.O. Case No. 3212 License No. 3737

Dr. Selby was present and accompanied by his attorney and another doctor to act as an expert witness. Dr. Selby was sworn in by the court reporter. The Medical Consultant read the case summary into the record. Dr. Selby discussed the case with the Board, and answered their questions. Dr. Wedel moved that the case be dismissed. Ms. Hendrix seconded. A roll call vote was taken, and the motion passed, 5-2. Dr. Wedel, Ms. Hendrix, Dr. Brysacz, Dr. Cohen, and Dr. Reiss voted in favor of the motion. Dr. Steinway and Mr. Grossman voted against the motion.

IX. REVIEW, DISCUSSION, AND ACTION ON REHEARING OR REVIEW OF DECISION PURSUANT TO A.A.C. R4-22-106

There were no items on the agenda under this heading.

X. REVIEW, CONSIDERATION AND ACTION ON COMPLIANCE WITH TERMS OF BOARD ORDERS AND REQUESTS TO MODIFY OR TERMINATE ORDERS, PURSUANT TO A.R.S. 32-1855.

A. Lawrence Cherish, D.O.

Dr. Cherish was present, and accompanied by Michel Sucher, M.D., the Board's consultant to the physician's recovery program. Dr. Cherish discussed his request for early termination of his probation with the Board. Ms. Hendrix moved that the probation be terminated at this time. Dr. Brysacz seconded. The motion passed, 7-0.

B. Patrick Marsh, D.O.

Dr. Marsh was present, and accompanied by Michel Sucher, M.D., the Board's consultant to the physician's recovery program. Dr. Marsh discussed his request for early termination of his probation with the Board. Dr. Cohen moved that the probation be terminated at this time. Dr. Brysacz seconded. The motion passed, 4-3. Dr. Cohen, Dr. Brysacz, Dr. Wedel, and Dr. Reiss voted in favor of the motion. Ms. Hendrix, Dr. Steinway, and Mr. Grossman voted against the motion.

XI. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. §32-1822 (B): PERMITS PURSUANT TO § A.R.S. 32-1829; AND RENEWALS OF LICENSES PURSUANT TO A.R.S. §32-1825 (C-D) AND A.A.C. R4-22-109.

A. Brandon Covert, D.O.

The Board directed that Dr. Covert appear before them to discuss his application for licensure. The Board also instructed staff to inform Dr. Covert that they would consider a withdrawal of the application if he preferred not to appear.

B. LeRoy F. Peel, D.O.

C. Paul Ruble, D.O.

Dr. Steinway moved that CME requirement for Dr. Peel and Dr. Ruble be waived, as both met the requirements in rule for such waivers. Dr. Brysacz seconded. The motion passed, 7-0.

XII. REVIEW, DISCUSSION, AND ACTION ON CASE REVIEWS OF ALLEGATIONS OF UNPROFESSIONAL CONDUCT

A. S. Foster Easley, D.O. Case No. 3121 License No. 3212

Based on the case materials provided and reviewer recommendations, Dr. Steinway moved that an Investigative Hearing be conducted. Mr. Grossman seconded. The motion passed, 7-0.

B. Joy Schechtman, D.O. Case No. 3096 License No. 2376

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that the case be dismissed. Dr. Brysacz seconded. The motion passed, 7-0.

C. Harry Watters, D.O. Case No. 3063M License No. 1927

Based on the case materials provided and reviewer recommendations, Dr. Steinway moved that the case be dismissed. Dr. Wedel seconded. The motion passed, 7-0.

D. Harry Watters, D.O. Case No. 3128 License No. 1927

Based on the case materials provided and reviewer recommendations, Dr. Cohen moved that an Investigative Hearing be conducted. Mr. Grossman seconded. The motion passed, 7-0.

E. Michael Ginder, D.O. Case No. 3033 License No. 0959

Dr. Ginder was present and accompanied by staff. Based on the case materials provided, and a brief discussion with Dr. Ginder, Mr. Grossman moved that the Board conduct an Investigative Hearing on this matter. Ms. Hendrix seconded. The Board directed that staff conduct a review of his charts prior to the Investigative Hearing.

F. Steven Locnikar, D.O. Case No. 3027 License No. 2669

Based on the case materials provided and reviewer recommendations. Dr. Steinway moved that the case be dismissed. Ms. Hendrix seconded. The motion passed, 7-0.

G. Michael Merchant, D.O. Case No. 3087 License No. 1530

Based on the case materials provided and reviewer recommendations, Dr. Steinway moved that the case be dismissed. Mr. Grossman seconded. The motion passed, 7-0.

H. Douglas Bobb, D.O. Case No. 3090M License No. 1990

Based on the case materials provided and reviewer recommendations, Dr. Steinway moved that the case be dismissed. Dr. Wedel seconded. The motion passed, 7-0.

I. David Berkenbile, D.O. Case No. 3147 License No. 3252

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that the case be dismissed. Dr. Steinway seconded. The motion passed, 7-0.

J. Kenneth Locke, D.O. Case No. 3079 License No. 3072

Based on the case materials provided and reviewer recommendations, Dr. Brysacz moved that the case be dismissed. Dr. Steinway seconded. The motion passed, 7-0.

K. Donald Nelson, D.O. Case No. 3114 License No. 2846

Based on the case materials provided and reviewer recommendations, Dr. Wedel moved that the case be dismissed. Dr. Steinway seconded. The motion passed, 7-0.

L. Dean Kirschbaum, D.O. Case No. 3138 License No. 2687

Based on the case materials provided and reviewer recommendations, Dr. Brysacz moved that the case be dismissed. Mr. Grossman seconded. The motion passed, 7-0.

M. Thomas Wood, D.O. Case No. 3153 License No. 2251

The complainant was present. Based on the case materials provided, reviewer recommendations, and a brief discussion with the complainant, Dr. Cohen moved that an Investigative Hearing be conducted on this case. Dr. Steinway seconded. The motion passed, 7-0.

N. Richard Dexter, D.O. Case No. 3101M License No. 3441

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that an Investigative Hearing be conducted on this matter. Dr. Steinway seconded. The motion passed, 7-0.

O. Marc Gregory, D.O. Case No. 3122 License No. 1886

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that the case be dismissed. Ms. Hendrix seconded. The motion passed, 7-0.

P. Paul Geimer, D.O. Case No. 3120 License No. 1509

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that the case be dismissed. Dr. Steinway seconded. The motion passed, 7-0.

Q. Jeffrey Izenberg, D.O. Case No. 3089M License No. 2942

Dr. Izenberg was present. Based on the case materials provided and the reviewers' recommendations, Dr. Brysacz moved that an Investigative Hearing be conducted on this matter. Dr. Steinway seconded. The motion passed, 7-0. The Board asked that any testimony wait until the Investigative Hearing.

R. Michael Milazzo, D.O. Case No. 3267 License No. 1887

Based on the information provided by staff, Dr. Steinway moved that this case be Administratively Closed. Dr. Wedel seconded. The motion passed, 7-0.

S. Kenneth Young, D.O. Case No. 3125M License No. 2930

Based on the information provided by staff, Mr. Grossman moved that this case be Administratively Closed. Dr. Steinway seconded. The motion passed, 7-0.

T. Carmen Alfonso, D.O. Case No. 3136 License No. 3004

U. Carmen Alfonso, D.O. Case No. 3139 License No. 3004

V. Carmen Alfonso, D.O. Case No. 3152 License No. 3004

Dr. Alfonso was present, and accompanied by her attorney. Based on the case materials provided and the reviewer recommendations, Dr. Wedel moved to conduct an Investigative Hearing on these three cases. Mr. Grossman seconded. The motion passed, 7-0. The Board asked that any testimony wait until the Investigative Hearing.

W. Craig Rundbaken, D.O. Case No. 3091 License No. 3219

Based on the case materials provided and reviewer recommendations, Mr. Grossman moved that an Investigative Hearing be conducted. Dr. Steinway seconded. The motion passed, 7-0.

X. Joe Gregory, D.O. Case No. 3047(A)M License No. 2702

Y. Alphonse Ambrosia, D.O. Case No. 3047(B)M License No. 2705

Z. Jill Kerr, D.O. Case No. 3047(C)M License No. 3241

Based on the case materials provided and reviewer recommendations, Dr. Steinway moved that Investigative Hearings be conducted on the above, inter-related cases. Mr. Grossman seconded. The motion passed, 7-0.

AA. Brian Finkel, D.O. Case No. 3287 License No. 1830

Based on the case materials provided and recommendations of staff, Dr. Steinway moved that a formal Administrative Hearing be conducted on this case. Mr. Grossman seconded. The motion passed, 7-0.

BB. Corey W. Gilliland, D.O. Case No. 3296 License No. 3935

Based on information provided and the recommendation of staff, this case was tabled.

XIII. REVIEW, DISCUSSION, AND ACTION ON PROPOSED LEGISLATION FOR UPCOMING SESSION, PURSUANT TO ARS § 32-1803(B)(13).

A. Proposed changes to ARS §32-1800 (Osteopathic laws)

The Executive Director reviewed the status of HB2344, the Board's bill. The proposed amendments to 32-1861, regarding the physician's health program, will be deleted from the bill.

The Executive Director reported that she is also asking for an amendment to HB2397, at ARS 12-2295(C)(4), to clarify that the Board does not have to pay for copies of medical records.

XIV. REVIEW, CONSIDERATION, AND ACTION ON EXECUTIVE DIRECTOR'S REPORT.

A. Performance Measures Report

The Board had no comment on the Performance Measures Report.

B. Financial Report

The Executive Director discussed with the Board the differences between the revenue projected for this cycle's renewals, and the amount received to date. The deadline for on-time renewals is February 2, 2004. The Executive Director will inform the Board the first week in February of the revised figures.

C. Update on rulemaking

The Board formed a committee to discuss the possibility of changing the current requirement for Category 1-A continuing medical education. Dr. Reiss, Dr. Brysacz, and Dr. Steinway agreed to serve on the committee. The Executive Director will open a rulemaking docket on this issue.

D. Use of EtG test in monitoring recovery

Michel Sucher, M.D. made a brief presentation to the Board on the uses of this test for detecting alcohol use. Dr. Cohen moved that the Board use this test as indicated. Dr. Steinway seconded. The motion passed, 7-0.

E. Schedule for meetings in 2004

The Board made no changes to the schedule proposed.

F. Interagency Service Agreement for half time Asst. Attorney General services

The Board had no objection to the Executive Director entering into this ISA for the rest of fiscal year 2004.

XV. ADJOURNMENT

There being no further business on the agenda, Dr. Reiss adjourned the meeting at 5:00 p.m.

Drafted: January 26, 2004
Approved: March 27, 2004